

SENATE BILL No. 404

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-28-14.

Synopsis: Homeowners associations. Provides that: (1) a grantee of real estate is not liable for; and (2) the real estate conveyed is not subject to a homeowners association lien for; any unpaid homeowners association assessments against the grantor unless the grantee has actual knowledge of the unpaid assessments. Allows the manager of a homeowners association to enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. Provides that a complaint must be filed not later than six years after the date the statement and notice of intention to hold a lien is recorded instead of one year after the date. Allows a homeowners association or the manager of the homeowners association acting on behalf of the association to: (1) bid on the real estate at a homeowners association lien foreclosure sale; and (2) acquire, hold, lease, mortgage, and convey the real estate. Specifies that an action to recover a money judgment for unpaid homeowners association common expenses may be maintained without foreclosing or having a lien securing the expenses.

Effective: July 1, 2009.

Tallian

January 12, 2009, read first time and referred to Committee on Judiciary.

C
o
p
y



Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 404

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-28-14-7, AS ADDED BY P.L.135-2007,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 7. (a) Except as provided in subsection (b), in a
4 voluntary conveyance, the grantee of real estate is jointly and severally
5 liable with the grantor for all unpaid assessments against the grantor for
6 the grantor's share of the common expenses incurred before the grant
7 or conveyance, without prejudice to the grantee's right to recover from
8 the grantor the amounts of common expenses paid by the grantee.
9 (b) The grantee:
10 (1) is entitled to a statement from the manager, board of directors,
11 or other governing authority of the homeowners association that
12 sets forth the amount of the unpaid assessments against the
13 grantor; and
14 (2) is not liable for, and the real estate conveyed is not subject to
15 a homeowners association lien for, any unpaid assessments
16 against the grantor unless:
17 (A) the grantee has actual knowledge of the unpaid



C
o
p
y

assessments; or

(B) the lien for unpaid assessments is recorded under section 6 of this chapter before recording the deed by which the grantee takes title.

(c) If the mortgagee of a first mortgage of record or other purchaser of real estate obtains title to the real estate as a result of foreclosure of the first mortgage, the acquirer of title or the acquirer's successors and assigns are not liable for the share of the common expenses or assessments by the homeowners association chargeable to the real estate that became due before the acquisition of title to real estate by the acquirer. The unpaid share of common expenses or assessments is considered to be common expenses collectible from all of the owners of real estate in the subdivision, including the acquirer or the acquirer's successors and assigns.

SECTION 2. IC 32-28-14-8, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A homeowners association **or the manager of the homeowners association acting on behalf of the association** may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint must be filed not later than ~~one (1) year~~ **six (6) years** after the date the statement and notice of intention to hold a lien was recorded under section 6 of this chapter.

(b) If a lien is not enforced within the time set forth in subsection (a), the lien is void.

(c) If a lien is foreclosed under this chapter, the court rendering judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisal laws.

(d) Unless prohibited by the bylaws, the covenants, or other written instruments of the homeowners association, a homeowners association or the manager of the homeowners association acting on behalf of the association may:

(1) bid on the real estate at a foreclosure sale under subsection (c); and

(2) acquire, hold, lease, mortgage, and convey the real estate.

(e) An action to recover a money judgment for unpaid common expenses may be maintained without foreclosing or having a lien securing the common expenses.

C
o
p
y

